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APPLICATION NO:	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO:
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09/492,218 01/27/00 SITRICK

D STD 1757

EXAMINER

MMC2/1121

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8340 N Lincoln Avenue  
suite 201  
Skokie IL 60077

FLETCHER M

ART UNIT

PAPER NUMBER

2837

DATE MAILED:

11/21/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

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# Office Action Summary

Application No.  
**09/482,218**

Applicant(s)  
**Sitrick**

Examiner  
**Marlon Fletcher**

Group Art Unit  
**2837**



☒ Responsive to communication(s) filed on Jun 27, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-93 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☐ Claim(s) \_\_\_\_\_ is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☒ Claims 1-93 are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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### **DETAILED ACTION**

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-36, 66-81, and 86-90, drawn to a display, classified in class 345, subclass 418.
  - II. Claims 37-40, and 55-65, drawn to method of displaying music, classified in class 84, subclass 477R.
  - III. Claims 41-51, 82-84, and 91-93, drawn to communications, classified in class 700, subclass 90.
  - IV. Claims 52-54, 85, drawn to a method of virtual performance, classified in class 348, subclass 739.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because group I provides a display system which encompasses a broad are of display devices, wherein group II is related to a more specific area of musical display, wherein group II does not require the particulars of group I. The subcombination has separate utility such as displaying musical presentations.

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3. Inventions III and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention group III is directed to a communication system, wherein computers are interconnected to transfer data, wherein group IV is directed to a virtual performance performed on a workstation which has separate utility such as displaying virtual performance. See MPEP § 806.05(d).

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

5. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

6. Because these inventions are distinct for the reasons given above and the search required for Group III is not required for Group IV, restriction for examination purposes as indicated is proper.

7. A telephone call was made to David Sitrick on 11/20/2000 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marlon Fletcher whose telephone number is (703) 308-0848.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Nappi, can be reached on (703) 308-3370. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7722.

MTF



November 20, 2000

MARLON T. FLETCHER  
PATENT EXAMINER

